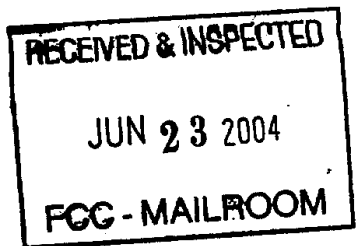


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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.



In the Matter of

Amendment of Section 73.202(b)
Table of Allotments
FM Broadcast Stations
(Madisonville, and
College Station, Texas)

) MM Docket No. 99-331

) RM-9848

ORIGINAL

To: Assistant Chief,
Audio Division
Media Bureau

**MOTION FOR LEAVE TO FILE
REQUEST FOR WAIVER**

On November 19, 1999, a Notice of Proposed Rulemaking (DA 99-2564) was issued in this proceeding and on January 10, 2000, a "Comments and Counterproposal" was filed by Garwood Broadcasting Company of Texas ("Garwood"). The Garwood Counterproposal was subsequently published by the Commission on April 11, 2000, in Public Notice Report No. 2402. On January 21, 2003, the Chief of the Audio Division of the Media Bureau issued a Report and Order (DA 03-144) which denied the Garwood Counterproposal. A Petition for Reconsideration of that action was subsequently filed by Garwood on February 20, 2003, and remains pending at this time.

At the time of filing of the Garwood Counterproposal it proposed two new first transmission services (in the towns of Garwood and Sheridan, Texas) but to do so it included as an essential part, a "backfill" proposal which would have temporarily removed an existing station in Palacios, Texas, which

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is its present sole transmission service. The channel at Palacios would be replaced by an equivalent channel for which Garwood was fully committed to apply and operate. This procedure, fully consistent with FCC policy at the time of filing and for the several years thereafter that the proposal was pending, was referred to as a "backfill" process.

On February 11, 2003, the Commission issued a Memorandum, Opinion and Order in Pacific Broadcasting of Missouri, 18 FCC Rcd 2291 (2003), and in the course of denying an STA requested by Pacific in that proceeding, went on to also indicate its unhappiness with the existing backfill policy and directed the staff to "immediately cease this practice". As there was some measure of uncertainty as to what effect was intended by this change of policy upon existing cases, Garwood and others on March 13, 2003 requested Reconsideration and Clarification from the Commission.

Garwood continued to press its request for Reconsideration and/or Clarification of the effect and application of this new policy upon longtime existing Petitioners such as Garwood (filing a Motion to Expedite on 6-25-03 and an Update to Motion to Expedite on 3-4-04) and on June 16, 2004, the Commission responded to the pending appeals, essentially denying any relief or retreat from the new backfill policy, indicating that it is to apply to everyone, no matter what their position, and directing the staff "in the ordinary course" to dismiss any petition, counterproposal, or existing Notice of Proposed Rulemaking that

is inconsistent with the new backfill policy. At that point, the Commission indicated that any further relief, or request for relief, should be by way of a request for waiver of the new backfill policy, filed in the individual affected case.

In response to this Commission action, Garwood hereby requests leave to file the attached "Request for Waiver" in this proceeding. In view of the facts as indicated, it is respectfully submitted that there is good cause to accept and consider the Request for Waiver. See Warmack Communications, Springfield, Florida, 3 FCC Rcd 2526 (1986); South Congaree and Batesburg, South Carolina, 5 FCC Rcd 7480 (1990); and Live Oak and St. Augustine, Florida, 4 FCC Rcd 758 at 760-61 (1989).

Wherefore, it is submitted that good cause exists and that the public interest would be served by grant of this Motion and it is therefore respectfully requested that the attached Request for Waiver be accepted and considered in this case.

Respectfully submitted,

GARWOOD BROADCASTING COMPANY OF TEXAS

by


Robert J. Buenzle

Its Counsel

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June 23, 2004

CERTIFICATE OF SERVICE

I, Robert J. Buenzle, do hereby certify that copies of the foregoing Motion For Leave To File Request For Waiver have been served by United States mail, postage prepaid this 23rd day of June, 2004, upon the following:

John A. Karousos, Esq.
Assistant Chief, Audio Division
Office of Broadcast License Policy
Media Bureau
Federal Communications Commission
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Licensee of KMKS(FM)



Robert J. Buenzle